

103D CONGRESS
1ST SESSION

H. R. 680

To grant employees family and temporary medical leave under certain circumstances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. HOUGHTON introduced the following bill; which was referred jointly to the Committees on Education and Labor, Post Office and Civil Service, and House Administration

A BILL

To grant employees family and temporary medical leave under certain circumstances, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Family and Medical Leave Act of 1993”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

Sec. 101. Definitions.

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Sec. 103. Certification.

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- Sec. 105. Prohibited acts.
- Sec. 106. Investigative authority.
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- Sec. 108. Special rules concerning employees of local educational agencies.
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TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

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TITLE III—COMMISSION ON LEAVE

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TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Effect on other laws.
- Sec. 402. Effect on existing employment benefits.
- Sec. 403. Encouragement of more generous leave policies.
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TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

- Sec. 501. Leave for certain Senate employees.
- Sec. 502. Leave for certain congressional employees.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) the number of single-parent households and
 4 two-parent households in which the single parent or
 5 both parents work is increasing significantly;

6 (2) it is important for the development of chil-
 7 dren and the family unit that fathers and mothers
 8 be able to participate in early childrearing and the
 9 care of family members who have serious health con-
 10 ditions;

1 (3) the lack of employment policies to accom-
2 modate working parents can force individuals to
3 choose between job security and parenting;

4 (4) there is inadequate job security for employ-
5 ees who have serious health conditions that prevent
6 them from working for temporary periods;

7 (5) due to the nature of the roles of men and
8 women in our society, the primary responsibility for
9 family caretaking often falls on women, and such re-
10 sponsibility affects the working lives of women more
11 than it affects the working lives of men; and

12 (6) employment standards that apply to one
13 gender only have serious potential for encouraging
14 employers to discriminate against employees and ap-
15 plicants for employment who are of that gender.

16 (b) PURPOSES.—It is the purpose of this Act—

17 (1) to balance the demands of the workplace
18 with the needs of families, to promote the stability
19 and economic security of families, and to promote
20 national interests in preserving family integrity;

21 (2) to entitle employees to take reasonable leave
22 for medical reasons, for the birth or adoption of a
23 child, and for the care of a child, spouse, or parent
24 who has a serious health condition;

1 (3) to accomplish the purposes described in
2 paragraphs (1) and (2) in a manner that accommo-
3 dates the legitimate interests of employers;

4 (4) to accomplish the purposes described in
5 paragraphs (1) and (2) in a manner that, consistent
6 with the Equal Protection Clause of the Fourteenth
7 Amendment, minimizes the potential for employment
8 discrimination on the basis of sex by ensuring gen-
9 erally that leave is available for eligible medical rea-
10 sons (including maternity-related disability) and for
11 compelling family reasons, on a gender-neutral basis;
12 and

13 (5) to promote the goal of equal employment
14 opportunity for women and men, pursuant to such
15 clause.

16 **TITLE I—GENERAL** 17 **REQUIREMENTS FOR LEAVE**

18 **SEC. 101. DEFINITIONS.**

19 As used in this title:

20 (1) **COMMERCE.**—The terms “commerce” and
21 “industry or activity affecting commerce” mean any
22 activity, business, or industry in commerce or in
23 which a labor dispute would hinder or obstruct com-
24 merce or the free flow of commerce, and include
25 “commerce” and any “industry affecting com-

merce”, as defined in paragraphs (3) and (1), respectively, of section 120 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (3) and (1)).

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term “eligible employee” means any “employee”, as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who has been employed—

(i) for at least 12 months by the employer with respect to whom leave is requested under section 102; and

(ii) for at least 1,500 hours of service with such employer during the previous 12-month period.

(B) EXCLUSIONS.—The term “eligible employee” does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act); or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 100 employees if the total number of employees employed

1 by that employer within 75 miles of that
2 worksite is less than 100.

3 (C) DETERMINATION.—For purposes of
4 determining whether an employee meets the
5 hours of service requirement specified in sub-
6 paragraph (A)(ii), the legal standards estab-
7 lished under section 7 of the Fair Labor Stand-
8 ards Act of 1938 (29 U.S.C. 207) shall apply.

9 (3) EMPLOY; STATE.—The terms “employ” and
10 “State” have the same meanings given such terms
11 in subsections (g) and (c), respectively, of section 3
12 of the Fair Labor Standards Act of 1938 (29 U.S.C.
13 203 (g) and (c)).

14 (4) EMPLOYEE.—The term “employee” means
15 any individual employed by an employer.

16 (5) EMPLOYER.—

17 (A) IN GENERAL.—The term “em-
18 ployer”—

19 (i) means any person engaged in com-
20 merce or in any industry or activity affect-
21 ing commerce who employs 100 or more
22 employees for each working day during
23 each of 20 or more calendar workweeks in
24 the current or preceding calendar year;

25 (ii) includes—

1 (I) any person who acts, directly
2 or indirectly, in the interest of an em-
3 ployer to any of the employees of such
4 employer; and

5 (II) any successor in interest of
6 an employer; and

7 (iii) includes any “public agency”, as
8 defined in section 3(x) of the Fair Labor
9 Standards Act of 1938 (29 U.S.C. 203(x)).

10 (B) PUBLIC AGENCY.—For purposes of
11 subparagraph (A)(iii), a public agency shall be
12 considered to be a person engaged in commerce
13 or in an industry or activity affecting com-
14 merce.

15 (6) EMPLOYMENT BENEFITS.—The term “em-
16 ployment benefits” means all benefits provided or
17 made available to employees by an employer, includ-
18 ing group life insurance, health insurance, disability
19 insurance, sick leave, annual leave, educational bene-
20 fits, and pensions, regardless of whether such bene-
21 fits are provided by a practice or written policy of
22 an employer or through an “employee benefit plan”,
23 as defined in section 3(3) of the Employee Retirement
24 Income Security Act of 1974 (29 U.S.C.
25 1002(3)).

1 (7) HEALTH CARE PROVIDER.—The term
2 “health care provider” means—

3 (A) a doctor of medicine or osteopathy who
4 is authorized to practice medicine or surgery
5 (as appropriate) by the State in which the doc-
6 tor practices; or

7 (B) any other person determined by the
8 Secretary to be capable of providing health care
9 services.

10 (8) PARENT.—The term “parent” means the
11 biological parent of an employee or an individual
12 who stood in loco parentis to an employee when the
13 employee was a son or daughter.

14 (9) PERSON.—The term “person” has the same
15 meaning given such term in section 3(a) of the Fair
16 Labor Standards Act of 1938 (29 U.S.C. 203(a)).

17 (10) REDUCED LEAVE SCHEDULE.—The term
18 “reduced leave schedule” means leave that reduces
19 the usual number of hours per workweek, or hours
20 per workday, of an employee.

21 (11) SECRETARY.—The term “Secretary”
22 means the Secretary of Labor.

23 (12) SERIOUS HEALTH CONDITION.—The term
24 “serious health condition” means an illness, injury,

1 impairment, or physical or mental condition that in-
2 volves—

3 (A) inpatient care in a hospital, hospice, or
4 residential medical care facility; or

5 (B) continuing treatment by a health care
6 provider.

7 (13) SON OR DAUGHTER.—The term “son or
8 daughter” means a biological, adopted, or foster
9 child, a stepchild, a legal ward, or a child of a per-
10 son standing in loco parentis, who is—

11 (A) under 18 years of age; or

12 (B) 18 years of age or older and incapable
13 of self-care because of a mental or physical dis-
14 ability.

15 **SEC. 102. LEAVE REQUIREMENT.**

16 (a) IN GENERAL.—

17 (1) ENTITLEMENT TO LEAVE.—Subject to sec-
18 tion 103, an eligible employee shall be entitled to a
19 total of 12 workweeks of leave during any 12-month
20 period for one or more of the following:

21 (A) Because of the birth of a son or
22 daughter of the employee and in order to care
23 for such son or daughter.

1 (B) Because of the placement of a son or
2 daughter with the employee for adoption or fos-
3 ter care.

4 (C) In order to care for the spouse, or a
5 son, daughter, or parent, of the employee, if
6 such spouse, son, daughter, or parent has a se-
7 rious health condition.

8 (D) Because of a serious health condition
9 that makes the employee unable to perform the
10 functions of the position of such employee.

11 (2) EXPIRATION OF ENTITLEMENT.—The enti-
12 tlement to leave under subparagraphs (A) and (B)
13 of paragraph (1) for a birth or placement of a son
14 or daughter shall expire at the end of the 12-month
15 period beginning on the date of such birth or place-
16 ment.

17 (3) INTERMITTENT LEAVE.—

18 (A) IN GENERAL.—Leave under subpara-
19 graph (A) or (B) of paragraph (1) shall not be
20 taken by an employee intermittently unless the
21 employee and the employer of the employee
22 agree otherwise. Subject to subparagraph (B),
23 subsection (e), and section 103(b)(5), leave
24 under subparagraph (C) or (D) of paragraph

1 (1) may be taken intermittently when medically
2 necessary.

3 (B) ALTERNATIVE POSITION.—If an em-
4 ployee requests intermittent leave under sub-
5 paragraph (C) or (D) of paragraph (1) that is
6 foreseeable based on planned medical treat-
7 ment, the employer may require such employee
8 to transfer temporarily to an available alter-
9 native position offered by the employer for
10 which the employee is qualified and that—

11 (i) has equivalent pay and benefits;

12 and

13 (ii) better accommodates recurring pe-
14 riods of leave than the regular employment
15 position of the employee.

16 (b) REDUCED LEAVE.—On agreement between the
17 employer and the employee, leave under subsection (a)
18 may be taken on a reduced leave schedule. Such reduced
19 leave schedule shall not result in a reduction in the total
20 amount of leave to which the employee is entitled under
21 subsection (a).

22 (c) UNPAID LEAVE PERMITTED.—

23 (1) IN GENERAL.—Except as provided in sub-
24 section (d), leave granted under subsection (a) may
25 consist of unpaid leave.

1 (2) FAIR LABOR STANDARDS ACT OF 1938.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), an employee shall not be dis-
4 qualified for an exemption under section
5 13(a)(1) of the Fair Labor Standards Act of
6 1938 on the basis that when such employee
7 takes leave under section 102 such employee is
8 subject to a reduction in pay.

9 (B) EXCEPTION.—Subparagraph (A) shall
10 not apply with respect to any employee if—

11 (i) an action was brought in a court
12 involving the application of section
13 13(a)(1) of the Fair Labor Standards Act
14 of 1938 to such employee on the basis of
15 a reduction in pay, and

16 (ii) a final judgment was entered in
17 such action on or before the date of the en-
18 actment of this Act.

19 (d) RELATIONSHIP TO PAID LEAVE.—

20 (1) UNPAID LEAVE.—If an employer provides
21 paid leave for fewer than 12 workweeks, the addi-
22 tional weeks of leave necessary to attain the 12
23 workweeks of leave required under this title may be
24 provided without compensation.

25 (2) SUBSTITUTION OF PAID LEAVE.—

1 (A) IN GENERAL.—An eligible employee
2 may elect, or an employer may require the em-
3 ployee, to substitute any of the accrued paid va-
4 cation leave, personal leave, or family leave of
5 the employee for leave provided under subpara-
6 graph (A), (B), or (C) of subsection (a)(1) for
7 any part of the 12-week period of such leave
8 under such subsection.

9 (B) SERIOUS HEALTH CONDITION.—An el-
10 igible employee may elect, or an employer may
11 require the employee, to substitute any of the
12 accrued paid vacation leave, personal leave, or
13 medical or sick leave of the employee for leave
14 provided under subparagraph (C) or (D) of sub-
15 section (a)(1) for any part of the 12-week pe-
16 riod of such leave under such subsection, except
17 that nothing in this Act shall require an em-
18 ployer to provide paid sick leave or paid medical
19 leave in any situation in which such employer
20 would not normally provide any such paid leave.

21 (e) FORESEEABLE LEAVE.—

22 (1) REQUIREMENT OF NOTICE.—In any case in
23 which the necessity for leave under subparagraph
24 (A) or (B) of subsection (a)(1) is foreseeable based
25 on an expected birth or adoption, the employee shall

1 provide the employer with not less than 30 days no-
2 tice, before the date the leave is to begin, of the em-
3 ployee's intention to take leave under such subpara-
4 graph, except that if the date of the birth or adop-
5 tion requires leave to begin in less than 30 days, the
6 employee shall provide such notice as is practicable.

7 (2) DUTIES OF EMPLOYEE.—In any case in
8 which the necessity for leave under subparagraph
9 (C) or (D) of subsection (a)(1) is foreseeable based
10 on planned medical treatment, the employee—

11 (A) shall make a reasonable effort to
12 schedule the treatment so as not to disrupt un-
13 duly the operations of the employer, subject to
14 the approval of the health care provider of the
15 employee or the health care provider of the son,
16 daughter, spouse, or parent of the employee;
17 and

18 (B) shall provide the employer with not
19 less than 30 days notice, before the date the
20 leave is to begin, of the employee's intention to
21 take leave under such subparagraph, except
22 that if the date of the treatment requires leave
23 to begin in less than 30 days, the employee
24 shall provide such notice as is practicable.

1 (f) SPOUSES EMPLOYED BY THE SAME EM-
2 PLOYER.—In any case in which a husband and wife enti-
3 tled to leave under subsection (a) are employed by the
4 same employer, the aggregate number of workweeks of
5 leave to which both may be entitled may be limited to 12
6 workweeks during any 12-month period, if such leave is
7 taken—

8 (1) under subparagraph (A) or (B) of sub-
9 section (a)(1); or

10 (2) to care for a sick parent under subpara-
11 graph (C) of such subsection.

12 **SEC. 103. CERTIFICATION.**

13 (a) IN GENERAL.—An employer may require that a
14 request for leave under subparagraph (C) or (D) of section
15 102(a)(1) be supported by a certification issued by the
16 health care provider of the eligible employee or of the son,
17 daughter, spouse, or parent of the employee, as appro-
18 priate. The employee shall provide, in a timely manner,
19 a copy of such certification to the employer.

20 (b) SUFFICIENT CERTIFICATION.—Certification pro-
21 vided under subsection (a) shall be sufficient if it states—

22 (1) the date on which the serious health condi-
23 tion commenced;

24 (2) the probable duration of the condition;

1 (3) the appropriate medical facts within the
2 knowledge of the health care provider regarding the
3 condition;

4 (4)(A) for purposes of leave under section
5 102(a)(1)(C), a statement that the eligible employee
6 is needed to care for the son, daughter, spouse, or
7 parent and an estimate of the amount of time that
8 such employee is needed to care for the son, daugh-
9 ter, spouse, or parent; and

10 (B) for purposes of leave under section
11 102(a)(1)(D), a statement that the employee is un-
12 able to perform the functions of the position of the
13 employee; and

14 (5) in the case of certification for intermittent
15 leave for planned medical treatment, the dates on
16 which such treatment is expected to be given and the
17 duration of such treatment.

18 (c) SECOND OPINION.—

19 (1) IN GENERAL.—In any case in which the em-
20 ployer has reason to doubt the validity of the certifi-
21 cation provided under subsection (a) for leave under
22 subparagraph (C) or (D) of section 102(a)(1), the
23 employer may require, at the expense of the em-
24 ployer, that the eligible employee obtain the opinion
25 of a second health care provider designated or ap-

1 proved by the employer concerning any information
2 certified under subsection (b) for such leave.

3 (2) LIMITATION.—A health care provider des-
4 ignated or approved under paragraph (1) shall not
5 be employed on a regular basis by the employer.

6 (d) RESOLUTION OF CONFLICTING OPINIONS.—

7 (1) IN GENERAL.—In any case in which the
8 second opinion described in subsection (c) differs
9 from the opinion in the original certification pro-
10 vided under subsection (a), the employer may re-
11 quire, at the expense of the employer, that the em-
12 ployee obtain the opinion of a third health care pro-
13 vider designated or approved jointly by the employer
14 and the employee concerning the information cer-
15 tified under subsection (b).

16 (2) FINALITY.—The opinion of the third health
17 care provider concerning the information certified
18 under subsection (b) shall be considered to be final
19 and shall be binding on the employer and the em-
20 ployee.

21 (e) SUBSEQUENT RECERTIFICATION.—The employer
22 may require that the eligible employee obtain subsequent
23 recertifications on a reasonable basis.

24 **SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.**

25 (a) RESTORATION TO POSITION.—

1 (1) IN GENERAL.—Any eligible employee who
2 takes leave under section 102 for the intended pur-
3 pose of the leave shall be entitled, on return from
4 such leave—

5 (A) to be restored by the employer to the
6 position of employment held by the employee
7 when the leave commenced; or

8 (B) to be restored to an equivalent position
9 with equivalent employment benefits, pay, and
10 other terms and conditions of employment.

11 (2) LOSS OF BENEFITS.—The taking of leave
12 under section 102 shall not result in the loss of any
13 employment benefit accrued prior to the date on
14 which the leave commenced.

15 (3) LIMITATIONS.—Nothing in this section shall
16 be construed to entitle any restored employee to—

17 (A) the accrual of any seniority or employ-
18 ment benefits during any period of leave; or

19 (B) any right, benefit, or position of em-
20 ployment other than any right, benefit, or posi-
21 tion to which the employee would have been en-
22 titled had the employee not taken the leave.

23 (4) CERTIFICATION.—As a condition of restora-
24 tion under paragraph (1), the employer may have a
25 uniformly applied practice or policy that requires

1 each employee to receive certification from the
2 health care provider of the employee that the em-
3 ployee is able to resume work, except that nothing
4 in this paragraph shall supersede a valid State or
5 local law or a collective bargaining agreement that
6 governs the return to work of employees taking leave
7 under section 102(a)(1)(D).

8 (5) CONSTRUCTION.—Nothing in this sub-
9 section shall be construed to prohibit an employer
10 from requiring an employee on leave under section
11 102 to report periodically to the employer on the
12 status and intention of the employee to return to
13 work.

14 (b) EXEMPTION CONCERNING CERTAIN HIGHLY
15 COMPENSATED EMPLOYEES.—

16 (1) DENIAL OF RESTORATION.—An employer
17 may deny restoration under subsection (a) to any el-
18 igible employee described in paragraph (2) if—

19 (A) such denial is necessary to prevent
20 substantial and grievous economic injury to the
21 operations of the employer;

22 (B) the employer notifies the employee of
23 the intent of the employer to deny restoration
24 on such basis at the time the employer deter-
25 mines that such injury would occur; and

1 (C) in any case in which the leave has
2 commenced, the employee elects not to return
3 to employment after receiving such notice.

4 (2) AFFECTED EMPLOYEES.—An eligible em-
5 ployee described in paragraph (1) is a salaried eligi-
6 ble employee who is among the highest paid 10 per-
7 cent of the employees employed by the employer
8 within 75 miles of the facility at which the employee
9 is employed.

10 (c) MAINTENANCE OF HEALTH BENEFITS.—

11 (1) COVERAGE.—Except as provided in para-
12 graph (2), during any period that an eligible em-
13 ployee takes leave under section 102, the employer
14 shall maintain coverage under any “group health
15 plan” (as defined in section 5000(b)(1) of the Inter-
16 nal Revenue Code of 1986) for the duration of such
17 leave at the level and under the conditions coverage
18 would have been provided if the employee had con-
19 tinued in employment continuously from the date the
20 employee commenced the leave until the date the
21 employee is restored under subsection (a).

22 (2) FAILURE TO RETURN FROM LEAVE.—The
23 employer may recover the premium that the em-
24 ployer paid for maintaining coverage for the em-

1 employee under such group health plan during any pe-
2 riod of unpaid leave under section 102 if—

3 (A) the employee fails to return from leave
4 under section 102 after the period of leave to
5 which the employee is entitled has expired; and

6 (B) the employee fails to return to work
7 for a reason other than—

8 (i) the continuation, recurrence, or
9 onset of a serious health condition that en-
10 titles the employee to leave under subpara-
11 graph (C) or (D) of section 102(a)(1); or

12 (ii) other circumstances beyond the
13 control of the employee.

14 (3) CERTIFICATION.—

15 (A) ISSUANCE.—An employer may require
16 that a claim that an employee is unable to re-
17 turn to work because of the continuation, recur-
18 rence, or onset of the serious health condition
19 described in paragraph (2)(B)(i) be supported
20 by—

21 (i) a certification issued by the health
22 care provider of the eligible employee, in
23 the case of an employee unable to return
24 to work because of a condition specified in
25 section 102(a)(1)(D); or

1 (ii) a certification issued by the health
2 care provider of the son, daughter, spouse,
3 or parent of the employee in the case of an
4 employee unable to return to work because
5 of a condition specified in section
6 102(a)(1)(C).

7 (B) COPY.—The employee shall provide, in
8 a timely manner, a copy of such certification to
9 the employer.

10 (C) SUFFICIENCY OF CERTIFICATION.—

11 (i) LEAVE DUE TO SERIOUS HEALTH
12 CONDITION OF EMPLOYEE.—The certifi-
13 cation described in subparagraph (A)(i)
14 shall be sufficient if the certification states
15 that a serious health condition prevented
16 the employee from being able to perform
17 the functions of the position of the em-
18 ployee on the date that the leave of the
19 employee expired.

20 (ii) LEAVE DUE TO SERIOUS HEALTH
21 CONDITION OF FAMILY MEMBER.—The
22 certification described in subparagraph
23 (A)(ii) shall be sufficient if the certification
24 states that the employee is needed to care
25 for the son, daughter, spouse, or parent

1 who has a serious health condition on the
2 date that the leave of the employee ex-
3 pired.

4 **SEC. 105. PROHIBITED ACTS.**

5 (a) INTERFERENCE WITH RIGHTS.—

6 (1) EXERCISE OF RIGHTS.—It shall be unlawful
7 for any employer to interfere with, restrain, or deny
8 the exercise of or the attempt to exercise, any right
9 provided under this title.

10 (2) DISCRIMINATION.—It shall be unlawful for
11 any employer to discharge or in any other manner
12 discriminate against any individual for opposing any
13 practice made unlawful by this title.

14 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
15 IES.—It shall be unlawful for any person to discharge or
16 in any other manner discriminate against any individual
17 because such individual—

18 (1) has filed any charge, or has instituted or
19 caused to be instituted any proceeding, under or re-
20 lated to this title;

21 (2) has given, or is about to give, any informa-
22 tion in connection with any inquiry or proceeding re-
23 lating to any right provided under this title; or

1 (3) has testified, or is about to testify, in any
2 inquiry or proceeding relating to any right provided
3 under this title.

4 **SEC. 106. INVESTIGATIVE AUTHORITY.**

5 (a) IN GENERAL.—To ensure compliance with the
6 provisions of this title, or any regulation or order issued
7 under this title, the Secretary shall have, subject to sub-
8 section (c), the investigative authority provided under sec-
9 tion 11(a) of the Fair Labor Standards Act of 1938 (29
10 U.S.C. 211(a)).

11 (b) OBLIGATION TO KEEP AND PRESERVE
12 RECORDS.—Any employer shall keep and preserve records
13 in accordance with section 11(c) of the Fair Labor Stand-
14 ards Act of 1938 (29 U.S.C. 211(c)) and in accordance
15 with regulations issued by the Secretary.

16 (c) REQUIRED SUBMISSIONS GENERALLY LIMITED
17 TO AN ANNUAL BASIS.—The Secretary shall not under the
18 authority of this section require any employer or any plan,
19 fund, or program to submit to the Secretary any books
20 or records more than once during any 12-month period,
21 unless the Secretary has reasonable cause to believe there
22 may exist a violation of this title or any regulation or order
23 issued pursuant to this title, or is investigating a charge
24 pursuant to section 107(b).

1 (d) SUBPOENA POWERS.—For the purposes of any
2 investigation provided for in this section, the Secretary
3 shall have the subpoena authority provided for under sec-
4 tion 9 of the Fair Labor Standards Act of 1938 (29
5 U.S.C. 209).

6 **SEC. 107. ENFORCEMENT.**

7 (a) CIVIL ACTION BY EMPLOYEES.—

8 (1) LIABILITY.—Any employer who violates sec-
9 tion 105 shall be liable to any eligible employee af-
10 fected—

11 (A) for damages equal to—

12 (i) the amount of—

13 (I) any wages, salary, employ-
14 ment benefits, or other compensation
15 denied or lost to such employee by
16 reason of the violation; or

17 (II) in a case in which wages,
18 salary, employment benefits, or other
19 compensation have not been denied or
20 lost to the employee, any actual mone-
21 tary losses sustained by the employee
22 as a direct result of the violation, such
23 as the cost of providing care, up to a
24 sum equal to 12 weeks of wages or
25 salary for the employee;

1 (ii) the interest on the amount de-
2 scribed in clause (i) calculated at the pre-
3 vailing rate; and

4 (iii) an additional amount as liq-
5 uidated damages equal to the sum of the
6 amount described in clause (i) and the in-
7 terest described in clause (ii), except that
8 if an employer who has violated section
9 105 proves to the satisfaction of the court
10 that the act or omission which violated sec-
11 tion 105 was in good faith and that the
12 employer had reasonable grounds for be-
13 lieving that the act or omission was not a
14 violation of section 105, such court may, in
15 the discretion of the court, reduce the
16 amount of the liability to the amount and
17 interest determined under clauses (i) and
18 (ii), respectively; and

19 (B) for such equitable relief as may be ap-
20 propriate, including, without limitation, employ-
21 ment, reinstatement, and promotion.

22 (2) STANDING.—An action to recover the dam-
23 ages or equitable relief prescribed in paragraph (1)
24 may be maintained against any employer (including
25 a public agency) in any Federal or State court of

1 competent jurisdiction by any one or more employees
2 for and in behalf of—

3 (A) the employees; or

4 (B) the employees and other employees
5 similarly situated.

6 (3) FEES AND COSTS.—The court in such an
7 action shall, in addition to any judgment awarded to
8 the plaintiff, allow a reasonable attorney's fee, rea-
9 sonable expert witness fees, and other costs of the
10 action to be paid by the defendant.

11 (4) LIMITATIONS.—The right provided by para-
12 graph (1) to bring an action by or on behalf of any
13 employee shall terminate, unless such action is dis-
14 missed without prejudice on motion of the Secretary,
15 on—

16 (A) the filing of a complaint by the Sec-
17 retary of Labor in an action under subsection
18 (d) in which—

19 (i) restraint is sought of any further
20 delay in the payment of the damages de-
21 scribed in paragraph (1)(A) to such em-
22 ployee by an employer liable under para-
23 graph (1) for the damages; or

24 (ii) equitable relief is sought as a re-
25 sult of alleged violations of section 105; or

1 (B) the filing of a complaint by the Sec-
2 retary in an action under subsection (b) in
3 which a recovery is sought of the damages de-
4 scribed in paragraph (1)(A) owing to an eligible
5 employee by an employer liable under para-
6 graph (1).

7 (b) ACTION BY THE SECRETARY.—

8 (1) ADMINISTRATIVE ACTION.—The Secretary
9 shall receive, investigate, and attempt to resolve
10 complaints of violations of section 105 in the same
11 manner that the Secretary receives, investigates, and
12 attempts to resolve complaints of violations of sec-
13 tions 6 and 7 of the Fair Labor Standards Act of
14 1938 (29 U.S.C. 206 and 207).

15 (2) CIVIL ACTION.—The Secretary may bring
16 an action in any court of competent jurisdiction to
17 recover on behalf of an eligible employee the dam-
18 ages described in subsection (a)(1)(A).

19 (3) SUMS RECOVERED.—Any sums recovered by
20 the Secretary on behalf of an employee pursuant to
21 paragraph (2) shall be held in a special deposit ac-
22 count and shall be paid, on order of the Secretary,
23 directly to each employee affected. Any such sums
24 not paid to an employee because of inability to do
25 so within a period of 3 years shall be deposited into

1 the Treasury of the United States as miscellaneous
2 receipts.

3 (c) LIMITATION.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), an action may be brought under sub-
6 section (a) or (b) not later than 2 years after the
7 date of the last event constituting the alleged viola-
8 tion for which the action is brought.

9 (2) WILLFUL VIOLATION.—In the case of such
10 action brought for a willful violation of section 105,
11 such action may be brought within 3 years of the
12 date of the last event constituting the alleged viola-
13 tion for which such action is brought.

14 (3) COMMENCEMENT.—In determining when an
15 action is commenced by the Secretary under sub-
16 section (b) for the purposes of this subsection, it
17 shall be considered to be commenced on the date
18 when the complaint is filed.

19 (d) ACTION FOR INJUNCTION BY SECRETARY.—The
20 district courts of the United States shall have jurisdiction,
21 for cause shown, over an action brought by the Secretary
22 to restrain violations of section 105, including actions to
23 restrain the withholding of payment of wages, salary, em-
24 ployment benefits, or other compensation, plus interest,
25 found by the court to be due to eligible employees.

1 **SEC. 108. SPECIAL RULES CONCERNING EMPLOYEES OF**
2 **LOCAL EDUCATIONAL AGENCIES.**

3 (a) APPLICATION.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this section, the rights (including the rights
6 under section 104, which shall extend throughout
7 the period of leave of any employee under this sec-
8 tion), remedies, and procedures under this Act shall
9 apply to—

10 (A) any “local educational agency” (as de-
11 fined in section 1471(12) of the Elementary
12 and Secondary Education Act of 1965 (20
13 U.S.C. 2891(12))) and an eligible employee of
14 the agency; and

15 (B) any private elementary and secondary
16 school and an eligible employee of the school.

17 (2) DEFINITIONS.—For purposes of the appli-
18 cation described in paragraph (1):

19 (A) ELIGIBLE EMPLOYEE.—The term “eli-
20 gible employee” means an eligible employee of
21 an agency or school described in paragraph (1);
22 and

23 (B) EMPLOYER.—The term “employer”
24 means an agency or school described in para-
25 graph (1).

1 (b) LEAVE DOES NOT VIOLATE CERTAIN OTHER
2 FEDERAL LAWS.—A local educational agency and a pri-
3 vate elementary and secondary school shall not be in viola-
4 tion of the Individuals with Disabilities Education Act (20
5 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act
6 of 1973 (29 U.S.C. 794), or title VI of the Civil Rights
7 Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result
8 of an eligible employee of such agency or school exercising
9 the rights of such employee under this Act.

10 (c) INTERMITTENT LEAVE FOR INSTRUCTIONAL EM-
11 PLOYEES.—

12 (1) IN GENERAL.—Subject to paragraph (2), in
13 any case in which an eligible employee employed
14 principally in an instructional capacity by any such
15 educational agency or school requests leave under
16 subparagraph (C) or (D) of section 102(a)(1) that
17 is foreseeable based on planned medical treatment
18 and the employee would be on leave for greater than
19 20 percent of the total number of working days in
20 the period during which the leave would extend, the
21 agency or school may require that such employee
22 elect either—

23 (A) to take leave for periods of a particular
24 duration, not to exceed the duration of the
25 planned medical treatment; or

1 (B) to transfer temporarily to an available
2 alternative position offered by the employer for
3 which the employee is qualified, and that—

4 (i) has equivalent pay and benefits;
5 and

6 (ii) better accommodates recurring pe-
7 riods of leave than the regular employment
8 position of the employee.

9 (2) APPLICATION.—The elections described in
10 subparagraphs (A) and (B) of paragraph (1) shall
11 apply only with respect to an eligible employee who
12 complies with section 102(e)(2).

13 (d) RULES APPLICABLE TO PERIODS NEAR THE
14 CONCLUSION OF AN ACADEMIC TERM.—The following
15 rules shall apply with respect to periods of leave near the
16 conclusion of an academic term in the case of any eligible
17 employee employed principally in an instructional capacity
18 by any such educational agency or school:

19 (1) LEAVE MORE THAN 5 WEEKS PRIOR TO END
20 OF TERM.—If the eligible employee begins leave
21 under section 102 more than 5 weeks prior to the
22 end of the academic term, the agency or school may
23 require the employee to continue taking leave until
24 the end of such term, if—

1 (A) the leave is of at least 3 weeks dura-
2 tion; and

3 (B) the return to employment would occur
4 during the 3-week period before the end of such
5 term.

6 (2) LEAVE LESS THAN 5 WEEKS PRIOR TO END
7 OF TERM.—If the eligible employee begins leave
8 under subparagraph (A), (B), or (C) of section
9 102(a)(1) during the period that commences 5 weeks
10 prior to the end of the academic term, the agency
11 or school may require the employee to continue tak-
12 ing leave until the end of such term, if—

13 (A) the leave is of greater than 2 weeks
14 duration; and

15 (B) the return to employment would occur
16 during the 2-week period before the end of such
17 term.

18 (3) LEAVE LESS THAN 3 WEEKS PRIOR TO END
19 OF TERM.—If the eligible employee begins leave
20 under paragraph (A), (B), or (C) of section
21 102(a)(1) during the period that commences 3 weeks
22 prior to the end of the academic term and the dura-
23 tion of the leave is greater than 5 working days, the
24 agency or school may require the employee to con-
25 tinue to take leave until the end of such term.

1 (e) RESTORATION TO EQUIVALENT EMPLOYMENT
2 POSITION.—For purposes of determinations under section
3 104(a)(1)(B) (relating to the restoration of an eligible em-
4 ployee to an equivalent position), in the case of a local
5 educational agency or a private elementary and secondary
6 school, such determination shall be made on the basis of
7 established school board policies and practices, private
8 school policies and practices, and collective bargaining
9 agreements.

10 (f) REDUCTION OF THE AMOUNT OF LIABILITY.—If
11 a local educational agency or a private elementary and sec-
12 ondary school that has violated title I proves to the satis-
13 faction of the administrative law judge or the court that
14 the agency, school, or department had reasonable grounds
15 for believing that the underlying act or omission was not
16 a violation of such title, such judge or court may, in the
17 discretion of the judge or court, reduce the amount of the
18 liability provided for under section 107(a)(1)(A) to the
19 amount and interest determined under clauses (i) and (ii),
20 respectively, of such section.

21 **SEC. 109. NOTICE.**

22 (a) IN GENERAL.—Each employer shall post and
23 keep posted, in conspicuous places on the premises of the
24 employer where notices to employees and applicants for
25 employment are customarily posted, a notice, to be pre-

pared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer that willfully violates this section shall be assessed a civil money penalty not to exceed \$100 for each separate offense.

SEC. 110. REGULATIONS.

Not later than 60 days after the date of enactment of this title, the Secretary shall prescribe such regulations as are necessary to carry out this title.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES.—

(1) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER V—FAMILY AND MEDICAL
LEAVE

“§ 6381. Definitions

“For the purpose of this subchapter—

“(1) the term ‘employee’ means an individual who has been employed for at least 12 months on other than a temporary or intermittent basis—

1 “(A) as an employee as defined by section
2 6301(2) (excluding an individual employed by
3 the Government of the District of Columbia); or

4 “(B) in a position referred to in clause (v)
5 or (ix) of such section;

6 “(2) the term ‘health care provider’ means—

7 “(A) a doctor of medicine or osteopathy
8 who is authorized to practice medicine or sur-
9 gery (as appropriate) by the State in which the
10 doctor practices; and

11 “(B) any other person determined by the
12 Director of the Office of Personnel Management
13 to be capable of providing health care services;

14 “(3) the term ‘parent’ means the biological par-
15 ent of an employee, or an individual who stood in
16 loco parentis to an employee, when the employee was
17 a son or daughter;

18 “(4) the term ‘reduced leave schedule’ means
19 leave that reduces the usual number of hours per
20 workweek, or hours per workday, of an employee;

21 “(5) the term ‘serious health condition’ means
22 an illness, injury, impairment, or physical or mental
23 condition that involves—

24 “(A) inpatient care in a hospital, hospice,
25 or residential medical care facility; or

1 “(B) continuing treatment by a health care
2 provider; and

3 “(6) the term ‘son or daughter’ means a bio-
4 logical, adopted, or foster child, a stepchild, a legal
5 ward, or a child of a person standing in loco
6 parentis, who is—

7 “(A) under 18 years of age; or

8 “(B) 18 years of age or older and incapa-
9 ble of self-care because of a mental or physical
10 disability.

11 **“§ 6382. Leave requirement**

12 “(a)(1) An employee shall be entitled, subject to sec-
13 tion 6383, to a total of 12 administrative workweeks of
14 leave during any 12-month period for one or more of the
15 following:

16 “(A) Because of the birth of a son or daughter
17 of the employee and in order to care for such son
18 or daughter.

19 “(B) Because of the placement of a son or
20 daughter with the employee for adoption or foster
21 care.

22 “(C) In order to care for the spouse, or a son,
23 daughter, or parent, of the employee, if such spouse,
24 son, daughter, or parent has a serious health condi-
25 tion.

1 “(D) Because of a serious health condition that
2 makes the employee unable to perform the functions
3 of the employee’s position.

4 “(2) The entitlement to leave under subparagraph
5 (A) or (B) of paragraph (1) based on the birth or place-
6 ment of a son or daughter shall expire at the end of the
7 12-month period beginning on the date of such birth or
8 placement.

9 “(3)(A) Leave under subparagraph (A) or (B) of
10 paragraph (1) shall not be taken by an employee intermit-
11 tently unless the employee and the employing agency of
12 the employee agree otherwise. Subject to subparagraph
13 (B), subsection (e), and section 6383(b)(5), leave under
14 subparagraph (C) or (D) of paragraph (1) may be taken
15 intermittently when medically necessary.

16 “(B) If an employee requests intermittent leave under
17 subparagraph (C) or (D) of paragraph (1) that is foresee-
18 able based on planned medical treatment, the employing
19 agency may require such employee to transfer temporarily
20 to an available alternative position offered by the employ-
21 ing agency for which the employee is qualified and that—

22 “(i) has equivalent pay and benefits; and

23 “(ii) better accommodates recurring periods of
24 leave than the regular employment position of the
25 employee.

1 “(b) On agreement between the employing agency
2 and the employee, leave under subsection (a) may be taken
3 on a reduced leave schedule. In the case of an employee
4 on a reduced leave schedule, any hours of leave taken by
5 such employee under such schedule shall be subtracted
6 from the total amount of leave remaining available to such
7 employee under subsection (a), for purposes of the 12-
8 month period involved, on an hour-for-hour basis.

9 “(c) Except as provided in subsection (d), leave
10 granted under subsection (a) shall be leave without pay.

11 “(d) An employee may elect to substitute for leave
12 under subparagraph (A), (B), (C), or (D) of subsection
13 (a)(1) any of the employee’s accrued or accumulated an-
14 nual or sick leave under subchapter I for any part of the
15 12-week period of leave under such subparagraph, except
16 that nothing in this subchapter shall require an employing
17 agency to provide paid sick leave in any situation in which
18 such employing agency would not normally provide any
19 such paid leave.

20 “(e)(1) In any case in which the necessity for leave
21 under subparagraph (A) or (B) of subsection (a)(1) is
22 foreseeable based on an expected birth or placement, the
23 employee shall provide the employing agency with not less
24 than 30 days’ notice, before the date the leave is to begin,
25 of the employee’s intention to take leave under such sub-

1 paragraph, except that if the date of the birth or adoption
2 requires leave to begin in less than 30 days, the employee
3 shall provide such notice as is practicable.

4 “(2) In any case in which the necessity for leave
5 under subparagraph (C) or (D) of subsection (a)(1) is
6 foreseeable based on planned medical treatment, the em-
7 ployee—

8 “(A) shall make a reasonable effort to schedule
9 the treatment so as not to disrupt unduly the oper-
10 ations of the employing agency, subject to the ap-
11 proval of the health care provider of the employee or
12 the health care provider of the son, daughter,
13 spouse, or parent of the employee; and

14 “(B) shall provide the employing agency with
15 not less than 30 days’ notice, before the date the
16 leave is to begin, of the employee’s intention to take
17 leave under such subparagraph, except that if the
18 date of the treatment requires leave to begin in less
19 than 30 days, the employee shall provide such notice
20 as is practicable.

21 **“§ 6383. Certification**

22 “(a) An employing agency may require that a request
23 for leave under subparagraph (C) or (D) of section
24 6382(a)(1) be supported by certification issued by the
25 health care provider of the employee or of the son, daugh-

1 ter, spouse, or parent of the employee, as appropriate. The
2 employee shall provide, in a timely manner, a copy of such
3 certification to the employing agency.

4 “(b) A certification provided under subsection (a)
5 shall be sufficient if it states—

6 “(1) the date on which the serious health condi-
7 tion commenced;

8 “(2) the probable duration of the condition;

9 “(3) the appropriate medical facts within the
10 knowledge of the health care provider regarding the
11 condition;

12 “(4)(A) for purposes of leave under section
13 6382(a)(1)(C), a statement that the employee is
14 needed to care for the son, daughter, spouse, or par-
15 ent, and an estimate of the amount of time that
16 such employee is needed to care for such son, daugh-
17 ter, spouse, or parent; and

18 “(B) for purposes of leave under section
19 6382(a)(1)(D), a statement that the employee is un-
20 able to perform the functions of the position of the
21 employee; and

22 “(5) in the case of certification for intermittent
23 leave for planned medical treatment, the dates on
24 which such treatment is expected to be given and the
25 duration of such treatment.

1 “(c)(1) In any case in which the employing agency
2 has reason to doubt the validity of the certification pro-
3 vided under subsection (a) for leave under subparagraph
4 (C) or (D) of section 6382(a)(1), the employing agency
5 may require, at the expense of the agency, that the em-
6 ployee obtain the opinion of a second health care provider
7 designated or approved by the employing agency concern-
8 ing any information certified under subsection (b) for such
9 leave.

10 “(2) Any health care provider designated or approved
11 under paragraph (1) shall not be employed on a regular
12 basis by the employing agency.

13 “(d)(1) In any case in which the second opinion de-
14 scribed in subsection (c) differs from the original certifi-
15 cation provided under subsection (a), the employing agen-
16 cy may require, at the expense of the agency, that the em-
17 ployee obtain the opinion of a third health care provider
18 designated or approved jointly by the employing agency
19 and the employee concerning the information certified
20 under subsection (b).

21 “(2) The opinion of the third health care provider
22 concerning the information certified under subsection (b)
23 shall be considered to be final and shall be binding on the
24 employing agency and the employee.

1 “(e) The employing agency may require, at the ex-
2 pense of the agency, that the employee obtain subsequent
3 recertifications on a reasonable basis.

4 **“§ 6384. Employment and benefits protection**

5 “(a) Any employee who takes leave under section
6 6382 for the intended purpose of the leave shall be enti-
7 tled, upon return from such leave—

8 “(1) to be restored by the employing agency to
9 the position held by the employee when the leave
10 commenced; or

11 “(2) to be restored to an equivalent position
12 with equivalent benefits, pay, status, and other
13 terms and conditions of employment.

14 “(b) The taking of leave under section 6382 shall not
15 result in the loss of any employment benefit accrued prior
16 to the date on which the leave commenced.

17 “(c) Except as otherwise provided by or under law,
18 nothing in this section shall be construed to entitle any
19 restored employee to—

20 “(1) the accrual of any seniority or employment
21 benefits during any period of leave; or

22 “(2) any right, benefit, or position of employ-
23 ment other than any right, benefit, or position to
24 which the employee would have been entitled had the
25 employee not taken the leave.

1 “(d) As a condition to restoration under subsection
2 (a), the employing agency may have a uniformly applied
3 practice or policy that requires each employee to receive
4 certification from the health care provider of the employee
5 that the employee is able to resume work.

6 “(e) Nothing in this section shall be construed to pro-
7 hibit an employing agency from requiring an employee on
8 leave under section 6382 to report periodically to the em-
9 ploying agency on the status and intention of the employee
10 to return to work.

11 **“§ 6385. Prohibition of coercion**

12 “(a) An employee shall not directly or indirectly in-
13 timidate, threaten, or coerce, or attempt to intimidate,
14 threaten, or coerce, any other employee for the purpose
15 of interfering with the exercise of the rights of the em-
16 ployee under this subchapter.

17 “(b) For the purpose of this section, ‘intimidate,
18 threaten, or coerce’ includes promising to confer or confer-
19 ring any benefit (such as appointment, promotion, or com-
20 pensation), or taking or threatening to take any reprisal
21 (such as deprivation of appointment, promotion, or com-
22 pensation).

23 **“§ 6386. Health insurance**

24 “An employee enrolled in a health benefits plan under
25 chapter 89 who is placed in a leave status under section

1 6382 may elect to continue the health benefits enrollment
 2 of the employee while in such leave status and arrange
 3 to pay currently into the Employees Health Benefits Fund
 4 (described in section 8909), the appropriate employee con-
 5 tributions.

6 **“§ 6387. Regulations**

7 “The Office of Personnel Management shall prescribe
 8 regulations necessary for the administration of this sub-
 9 chapter. The regulations prescribed under this subchapter
 10 shall be consistent with the regulations prescribed by the
 11 Secretary of Labor under title I of the Family and Medical
 12 Leave Act of 1993.”.

13 (2) TABLE OF CONTENTS.—The table of con-
 14 tents for chapter 63 of title 5, United States Code,
 15 is amended by adding at the end the following:

“SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

- “6381. Definitions.
- “6382. Leave requirement.
- “6383. Certification.
- “6384. Employment and benefits protection.
- “6385. Prohibition of coercion.
- “6386. Health insurance.
- “6387. Regulations.”.

16 (b) EMPLOYEES PAID FROM NONAPPROPRIATED
 17 FUNDS.—Section 2105(c)(1) of title 5, United States
 18 Code, is amended—

19 (1) by striking “or” at the end of subparagraph
 20 (C); and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(E) subchapter V of chapter 63, which
4 shall be applied so as to construe references to
5 benefit programs to refer to applicable pro-
6 grams for employees paid from nonappropriated
7 funds; or”.

8 **TITLE III—COMMISSION ON**
9 **LEAVE**

10 **SEC. 301. ESTABLISHMENT.**

11 There is established a commission to be known as the
12 Commission on Leave (hereinafter referred to in this title
13 as the “Commission”).

14 **SEC. 302. DUTIES.**

15 The Commission shall—

16 (1) conduct a comprehensive study of—

17 (A) existing and proposed policies relating
18 to leave;

19 (B) the potential costs, benefits, and im-
20 pact on productivity of such policies on employ-
21 ers; and

22 (C) alternative and equivalent State en-
23 forcement of this Act with respect to employees
24 described in section 108(a); and

1 (2) not later than 2 years after the date on
2 which the Commission first meets, prepare and sub-
3 mit, to the appropriate Committees of Congress, a
4 report concerning the subjects listed in paragraph
5 (1).

6 **SEC. 303. MEMBERSHIP.**

7 (a) COMPOSITION.—

8 (1) APPOINTMENTS.—The Commission shall be
9 composed of 12 voting members and 2 ex officio
10 members to be appointed not later than 60 days
11 after the date of the enactment of this Act as fol-
12 lows:

13 (A) SENATORS.—One Senator shall be ap-
14 pointed by the Majority Leader of the Senate,
15 and one Senator shall be appointed by the Mi-
16 nority Leader of the Senate.

17 (B) MEMBERS OF HOUSE OF REPRESENTA-
18 TIVES.—One Member of the House of Rep-
19 resentatives shall be appointed by the Speaker
20 of the House of Representatives, and one Mem-
21 ber of the House of Representatives shall be ap-
22 pointed by the Minority Leader of the House of
23 Representatives.

24 (C) ADDITIONAL MEMBERS.—

1 (i) APPOINTMENT.—Two Members
2 each shall be appointed by—

3 (I) the Speaker of the House of
4 Representatives;

5 (II) the Majority Leader of the
6 Senate;

7 (III) the Minority Leader of the
8 House of Representatives; and

9 (IV) the Minority Leader of the
10 Senate.

11 (ii) EXPERTISE.—Such members shall
12 be appointed by virtue of demonstrated ex-
13 pertise in relevant family, temporary dis-
14 ability, and labor-management issues and
15 shall include representatives of employers.

16 (2) EX OFFICIO MEMBERS.—The Secretary of
17 Health and Human Services and the Secretary of
18 Labor shall serve on the Commission as nonvoting
19 ex officio members.

20 (b) VACANCIES.—Any vacancy on the Commission
21 shall be filled in the manner in which the original appoint-
22 ment was made. The vacancy shall not affect the power
23 of the remaining members to execute the duties of the
24 Commission.

1 (c) CHAIRPERSON AND VICE CHAIRPERSON.—The
2 Commission shall elect a chairperson and a vice chair-
3 person from among the members of the Commission.

4 (d) QUORUM.—Eight members of the Commission
5 shall constitute a quorum for all purposes, except that a
6 lesser number may constitute a quorum for the purpose
7 of holding hearings.

8 **SEC. 304. COMPENSATION.**

9 (a) PAY.—Members of the Commission shall serve
10 without compensation.

11 (b) TRAVEL EXPENSES.—Members of the Commis-
12 sion shall be allowed reasonable travel expenses, including
13 a per diem allowance, in accordance with section 5703 of
14 title 5, United States Code, when performing duties of the
15 Commission.

16 **SEC. 305. POWERS.**

17 (a) MEETINGS.—The Commission shall first meet not
18 later than 30 days after the date on which all members
19 are appointed, and the Commission shall meet thereafter
20 on the call of the chairperson or a majority of the mem-
21 bers.

22 (b) HEARINGS AND SESSIONS.—The Commission
23 may hold such hearings, sit and act at such times and
24 places, take such testimony, and receive such evidence as
25 the Commission considers appropriate. The Commission

1 may administer oaths or affirmations to witnesses appear-
2 ing before it.

3 (c) ACCESS TO INFORMATION.—The Commission
4 may secure directly from any Federal agency information
5 necessary to enable it to carry out this Act, if the informa-
6 tion may be disclosed under section 552 of title 5, United
7 States Code. Subject to the previous sentence, on the re-
8 quest of the chairperson or vice chairperson of the Com-
9 mission, the head of such agency shall furnish such infor-
10 mation to the Commission.

11 (d) EXECUTIVE DIRECTOR.—The Commission may
12 appoint an Executive Director from the personnel of any
13 Federal agency to assist the Commission in carrying out
14 the duties of the Commission. Any appointment shall not
15 interrupt or otherwise affect the civil service status or
16 privileges of the employee appointed.

17 (e) USE OF FACILITIES AND SERVICES.—Upon the
18 request of the Commission, the head of any Federal agen-
19 cy may make available to the Commission any of the facili-
20 ties and services of such agency.

21 (f) PERSONNEL FROM OTHER AGENCIES.—On the
22 request of the Commission, the head of any Federal agen-
23 cy may detail any of the personnel of such agency to assist
24 the Commission in carrying out the duties of the Commis-

1 sion. Any detail shall not interrupt or otherwise affect the
2 civil service status or privileges of the Federal employee.

3 (g) VOLUNTARY SERVICE.—Notwithstanding section
4 1342 of title 31, United States Code, the chairperson of
5 the Commission may accept for the Commission voluntary
6 services provided by a member of the Commission.

7 **SEC. 306. TERMINATION.**

8 The Commission shall terminate 30 days after the
9 date of the submission of the report of the Commission
10 to Congress.

11 **TITLE IV—MISCELLANEOUS**
12 **PROVISIONS**

13 **SEC. 401. EFFECT ON OTHER LAWS.**

14 (a) FEDERAL AND STATE ANTI-DISCRIMINATION
15 LAWS.—Nothing in this Act or any amendment made by
16 this Act shall be construed to modify or affect any Federal
17 or State law prohibiting discrimination on the basis of
18 race, religion, color, national origin, sex, age, or disability.

19 (b) STATE AND LOCAL LAWS.—Nothing in this Act
20 or any amendment made by this Act shall be construed
21 to supersede any provision of any State and local law that
22 provides greater employee leave rights than the rights es-
23 tablished under this Act or any amendment made by this
24 Act.

1 **SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

2 (a) MORE PROTECTIVE.—Nothing in this Act or any
3 amendment made by this Act shall be construed to dimin-
4 ish the obligation of an employer to comply with any col-
5 lective bargaining agreement or any employment benefit
6 program or plan that provides greater family and medical
7 leave rights to employees than the rights provided under
8 this Act or any amendment made by this Act.

9 (b) LESS PROTECTIVE.—The rights provided to em-
10 ployees under this Act or any amendment made by this
11 Act shall not be diminished by any collective bargaining
12 agreement or any employment benefit program or plan.

13 **SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE**
14 **POLICIES.**

15 Nothing in this Act or any amendment made by this
16 Act shall be construed to discourage employers from
17 adopting or retaining leave policies more generous than
18 any policies that comply with the requirements under this
19 Act or any amendment made by this Act.

20 **SEC. 404. REGULATIONS.**

21 The Secretary of Labor shall prescribe such regula-
22 tions as are necessary to carry out sections 401 through
23 403 not later than 60 days after the date of the enactment
24 of this Act.

1 **SEC. 405. EFFECTIVE DATES.**

2 (a) TITLE III.—Title III shall take effect on the date
3 of the enactment of this Act.

4 (b) OTHER TITLES.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), titles I, II, and V and this title shall take
7 effect 6 months after the date of the enactment of
8 this Act.

9 (2) COLLECTIVE BARGAINING AGREEMENTS.—
10 In the case of a collective bargaining agreement in
11 effect on the effective date prescribed by paragraph
12 (1), title I shall apply on the earlier of—

13 (A) the date of the termination of such
14 agreement; or

15 (B) the date that occurs 12 months after
16 the date of the enactment of this Act.

17 **TITLE V—COVERAGE OF**
18 **CONGRESSIONAL EMPLOYEES**

19 **SEC. 501. LEAVE FOR CERTAIN SENATE EMPLOYEES.**

20 (a) COVERAGE.—The rights and protections estab-
21 lished under sections 101 through 105 shall apply with
22 respect to a Senate employee and an employing office. For
23 purposes of such application, the term “eligible employee”
24 means a Senate employee and the term “employer” means
25 an employing office.

26 (b) CONSIDERATION OF ALLEGATIONS.—

1 (1) APPLICABLE PROVISIONS.—The provisions
2 of sections 304 through 313 of the Government Em-
3 ployee Rights Act of 1991 (2 U.S.C. 1204–1213)
4 shall, except as provided in subsections (d) and (e)—

5 (A) apply with respect to an allegation of
6 a violation of a provision of sections 101
7 through 105, with respect to Senate employ-
8 ment of a Senate employee; and

9 (B) apply to such an allegation in the
10 same manner and to the same extent as such
11 sections of the Government Employee Rights
12 Act of 1991 apply with respect to an allegation
13 of a violation under such Act.

14 (2) ENTITY.—Such an allegation shall be ad-
15 dressed by the Office of Senate Fair Employment
16 Practices or such other entity as the Senate may
17 designate.

18 (c) RIGHTS OF EMPLOYEES.—The Office of Senate
19 Fair Employment Practices shall ensure that Senate em-
20 ployees are informed of their rights under sections 101
21 through 105.

22 (d) LIMITATIONS.—A request for counseling under
23 section 305 of such Act by a Senate employee alleging a
24 violation of a provision of sections 101 through 105 shall
25 be made not later than 2 years after the date of the last

1 event constituting the alleged violation for which the coun-
2 seling is requested, or not later than 3 years after such
3 date in the case of a willful violation of section 105.

4 (e) APPLICABLE REMEDIES.—The remedies applica-
5 ble to individuals who demonstrate a violation of a provi-
6 sion of sections 101 through 105 shall be such remedies
7 as would be appropriate if awarded under paragraph (1)
8 or (3) of section 107(a).

9 (f) EXERCISE OF RULEMAKING POWER.—The provi-
10 sions of subsections (b), (c), (d), and (e), except as such
11 subsections apply with respect to section 309 of the Gov-
12 ernment Employee Rights Act of 1991 (2 U.S.C. 1209),
13 are enacted by the Senate as an exercise of the rulemaking
14 power of the Senate, with full recognition of the right of
15 the Senate to change its rules, in the same manner, and
16 to the same extent, as in the case of any other rule of
17 the Senate. No Senate employee may commence a judicial
18 proceeding with respect to an allegation described in sub-
19 section (b)(1), except as provided in this section.

20 (g) SEVERABILITY.—Notwithstanding any other pro-
21 vision of law, if any provision of section 309 of the Govern-
22 ment Employee Rights Act of 1991 (2 U.S.C. 1209) or
23 of subsection (e) is invalidated, both such section 309 and
24 subsection (e) shall have no force and effect, and shall be

1 considered to be invalidated for purposes of section 322
2 of such Act (2 U.S.C. 1221).

3 (h) DEFINITIONS.—As used in this section:

4 (1) EMPLOYING OFFICE.—The term “employing
5 office” means the office with the final authority de-
6 scribed in section 301(2) of such Act (2 U.S.C.
7 1201(2)).

8 (2) SENATE EMPLOYEE.—The term “Senate
9 employee” means an employee described in subpara-
10 graph (A) or (B) of section 301(c)(1) of such Act
11 (2 U.S.C. 1201(c)(1)) who has been employed for at
12 least 12 months on other than a temporary or inter-
13 mittent basis by any employing office.

14 **SEC. 502. LEAVE FOR CERTAIN CONGRESSIONAL EMPLOY-**
15 **EES.**

16 (a) IN GENERAL.—The rights and protections under
17 sections 102 through 105 (other than section 104(b)) shall
18 apply to any employee in an employment position and any
19 employing authority of the House of Representatives.

20 (b) ADMINISTRATION.—In the administration of this
21 section, the remedies and procedures under the Fair Em-
22 ployment Practices Resolution shall be applied.

23 (c) DEFINITION.—As used in this section, the term
24 “Fair Employment Practices Resolution” means the reso-

1 lution in rule LI of the Rules of the House of Representa-
2 tives.

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